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IN THE UNITED STATES DISTRICT COURT  
5  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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7 KIM VELASQUEZ, ) No. C 07-06479 TEH (PR)  
8 Plaintiff, )  
9 vs. ) ORDER GRANTING PLAINTIFF'S  
10 MONTEREY COUNTY, et al., ) MOTION FOR VOLUNTARY  
11 Defendants. ) DISMISSAL  
12 \_\_\_\_\_ ) (Docket Nos. 4, 5 & 9)  
13 )

14 Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint  
15 pursuant to 42 U.S.C. § 1983. On February 11, 2008, plaintiff filed a motion for a  
16 "stay and abeyance" in which he requests the Court to dismiss the action so as to  
17 exhaust his claim in state court. (Docket No. 9) The Court construes plaintiff's  
18 request as a notice of voluntary dismissal pursuant to Rule 41(a)(1)(i) of the Federal  
19 Rules of Civil Procedure.

20 Plaintiff's notice of dismissal was filed before service by the adverse party of  
21 an answer or motion for summary judgment; therefore, the Court finds that Plaintiff  
22 has the absolute right to dismiss his action voluntarily. See Fed. R. Civ. P. 41(a)(1)(i).  
23 Accordingly, this action is DISMISSED without prejudice. *Id.*

24 The clerk shall terminate all pending motions as moot, including Docket Nos. 4  
25 and 5, and close the file.

26 SO ORDERED.

27 DATED: 4/28/2008

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THELTON E. HENDERSON  
United States District Judge